



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 586-8203

October 8, 2002

RECEIVED

OCT 23 2002

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St. S.W.  
Washington, D.C. 20554

Federal Communications Commission  
Office of Secretary

RE: **Ex-Parte Disclosure**

Letter to Chairman Powell Concerning M&L Enterprises, Inc. d/b/a **Skyline**  
Telephone Company Petition for Waiver of Sections 36.611, 36.612 and 69.2(hh)  
of FCC Rules, CC Docket No. **96-15**

Dear Secretary Dortch:

The Washington Utilities and Transportation Commission submitted **the** attached Ex-Parte filing concerning the petition of M&L Enterprises, Inc. d/b/a Skyline Telephone Company Petition for Waiver of Sections 36.611, 36.612 and 69.2(hh) of FCC Rules, CC Docket No. 96-45, to Chairman Powell on October 7, 2002. Two copies of the filing are attached.

In addition to Chairman Powell, copies of the **Ex-Parte** filing addressed to Chairman Powell **were** provided to:

Christopher Libertelli, Office of the Chairman  
William Maher, Chief, Wireline Competition **Bureau**

Sincerely,

Handwritten signature of Carole J. Washburn in cursive.

CAROLE J. WASHBURN  
Executive Secretary

EX

FILED

Disseminated





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## WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 5. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
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October 7, 2002

Honorable Michael K. Powell  
 Chairman  
 Federal Communications Commission  
 445 12<sup>th</sup> St. S.W.  
 Washington, D.C. 20554

**Re: M&L Enterprises, Inc. d/b/a Skyline Telephone Company**  
**Petition for Waiver of Sections 36.611, 36.612 and 69.2(hh) of FCC Rules**  
**CC Docket No. 96-45**  
***Ex-Parte***

Dear Chairman Powell:

We write to request you take immediate action on the May 25, 2001, petition of Skyline Telephone for participation in the federal high-cost fund and the National Exchange Carrier Association's (NECA's) interstate access tariffs and pools. Immediate action on this petition is necessary to prevent the cessation of telephone service to approximately 115 households in Washington. Cessation of telephone service will occur when Skyline **can** no longer meet its loan commitments, something it cannot do without universal service support and interstate access revenues. Cessation of telephone service to these homes (which have only **had** service for a little over a year) would be a travesty that would jeopardize public safety and leave many households without access to **any** form of telecommunications other than a five-mile drive to a pay telephone.'

Skyline Telephone began service in the Mt. Hull area of north-central Washington in 2001. Mt. Hull is **an** area northeast of the town of Tonasket, in Okanogan County. Okanogan County is one of the most mountainous, rural, **and** economically depressed counties in Washington. Skyline provides service to **an** area where people never previously **had** telephone service.

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<sup>1</sup> In the absence of universal service support and interstate access revenue, the company would have to charge customers in excess of \$140.00 per month to avoid ceasing service. It is not reasonable to expect that all 115 customers would, or could, **pay** that amount, and we are convinced that customers will lose service.



Letter to Honorable Michael K. Powell  
 October 7, 2002  
 Page 2

Skyline established an exchange in an area where there had never been telephone service and where there **was** no telephone plant or equipment, notwithstanding that the area had been located for administrative purposes within the study areas of Qwest and Verizon. Because the unserved area had once been situated in two study areas, **the** FCC's Wireline Competition Bureau staff is apparently concerned that providing federal universal service support for this location **will** have an adverse effect upon federal universal service policy. The Bureau staff's concern is misplaced and its decision not to act on the petition for over 16 months is producing **an** effect that will be wholly contrary to the universal service goals of the Telecommunications Act of 1996.

The Telecommunications Act of 1996 does not contemplate the exclusive ownership or franchise of locations. Moreover, under Washington law, any telecommunications carrier may operate in any location because there can be no exclusive territory. Even if Skyline had wanted to purchase part of the Qwest and Verizon study areas, it could not have done **so** because neither Qwest nor Verizon had anything to sell. This is different from the sale of plant and equipment, which is properly regulated by both the Washington Commission and the FCC. In the case of Mt. Hull, there was no plant or equipment because the area had never been served by Qwest, Verizon or **any** other carrier.

The Bureau's concern is also misplaced because Skyline's creation of an exchange was not a sale of **an** exchange from a non-rural carrier to a rural carrier that may result in the limitation or denial of universal service support under FCC rules. Rather, Skyline constructed and established an exchange of its **own**, without any purchase of assets or territory **from** Qwest or Verizon, and installed the first telecommunications plant and equipment the **area has** ever known.

The Act does require designation of geographic service areas for purposes of determining eligibility for high-cost support. We have designated Skyline as an eligible telecommunications carrier (ETC) for the Mt. Hull exchange. We have never designated Qwest as an ETC for its study area that includes the Mt. Hull area. (Qwest receives no high-cost fund support from the FCC to support its service in rural Washington.) Whereas we have designated Verizon as an ETC for **the** Tonasket exchange, Verizon altered the boundaries of its Tonasket exchange in 2001, and is not an ETC for **any part** of the Mt. Hull exchange. Because we have designated Skyline an ETC for the Mt. Hull exchange, it should be eligible to receive federal universal service support. (Skyline participates in the **state** universal service *mechanism*, **but** that does not provide sufficient support to maintain the company, just as the state mechanism alone does not provide sufficient support for CenturyTel, Sprint/United, TDS, and Verizon, for example.)

We also understand from Bureau staff that part of its concern **may** be related to the recent growth and overall size of the universal service fund. These nationwide concerns should be addressed in a general rulemaking, and are not an appropriate reason to delay

Letter to Honorable Michael K. Powell  
October 7, 2002  
Page 3

or deny the benefits of support to approximately 115 households in one of the most mountainous, rural, and economically depressed counties in Washington. If Skyline does not soon receive federal universal service **support** and interstate access revenues, it will have no choice **but** to terminate its service to those households.

The Skyline petition **has** languished for over sixteen months. **Any** more delay may preclude, as a practical matter, effective relief for Skyline. To reiterate, Skyline informs us that in a short time it will not be in a position to meet its loan commitments. In the interest of the 115 households served by Skyline, we request **that** you **take** immediate action and grant the petition.

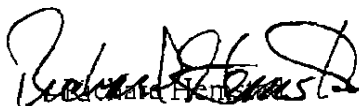
Thank you for your attention to this matter.

Sincerely,



N. Showalter

Chairwoman



Richard H. Hensley

Commissioner



Patrick J. Oshie

Commissioner

Enclosure: Skyline Telephone Profit and Loss Statement

cc Honorable Patty Murray, United States Senator  
Honorable Maria Cantwell, United States Senator  
Honorable George Nethercutt, Member of Congress

**LARRY A. JEFFRIES C.P.A.**

TRAVIS JEFFRIES, P. A.  
CERTIFIED PUBLIC ACCOUNTANTS  
1177 West State Street  
Boise, Idaho 83702

(208) 345-5383  
FAX (208) 345-5505  
EMAIL: [Larry@travis-jeffries.com](mailto:Larry@travis-jeffries.com)

September 25, 2002

Karen Williams  
Skyline Telephone Company  
Midvale, Idaho

Dear Karen:

Enclosed is the Compiled Profit and Loss —Telephone Operations for Skyline for the first six months of ~~this~~ year. It shows an operating loss of \$61,298. When you add this to the \$109,741 loss for the 2001 year your cumulative loss is \$171,039. From our discussions it does not appear the balance of the 2002 year will be much improved.

Monies to support these sustained losses have come from borrowing from stockholders. It is important at this point to review your revenue structure and projections for the near future. It does not appear that the Company can continue telephone operations and incur these losses.

I will be available to discuss this statement in more detail after you have reviewed it.

Very truly yours,

Larry

Larry A. Jeffries  
Certified Public Accountant

**Skyline Telephone Company**  
**PROFIT AND LOSS - TELEPHONE OPERATIONS**  
For the Six Months Ended June 30, 2002

|   |                       |
|---|-----------------------|
| <b>OPERATING REVENUE</b>                    |                       |
| Basic local network services                | \$ 17,047.91          |
| Network access services                     | <u>29,819.51</u>      |
| Total Operating Revenues                    | <u>46,867.42</u>      |
| <b>OPERATING EXPENSES</b>                   |                       |
| Plant specific operations                   | 21,743.63             |
| Plant nonspecific operations                | 2,474.60              |
| Customer operations                         | 3,837.68              |
| Corporate operations                        | 38,202.17             |
| Depreciation and amortization               | <u>29,435.42</u>      |
| Total Operating Expenses                    | <u>95,693.48</u>      |
| <b>OPERATING EXPENSES</b>                   |                       |
| Other operating taxes                       | <u>70.00</u>          |
| Operating Income (loss)                     | (48,096.06)           |
| <b>FIXED CHARGES</b>                        |                       |
| Interest on debt                            | <u>14,671.91</u>      |
|   | (63,767.97)           |
| <b>OTHER INCOME</b>                         |                       |
| Gain on sale of assets                      | <u>2,470.00</u>       |
| Net Income (Loss) From Telephone Operations | <u>\$ (61,297.97)</u> |

**LARRY A. JEFFRIES C.P.A.**

TRAVIS JEFFRIES, P A  
CERTIFIED PUBLIC ACCOUNTANTS  
1177 West State Street  
Boise, Idaho 83702

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EMAIL: [larry@travis-jeffries.com](mailto:larry@travis-jeffries.com)

September 25, 2002

Karen Williams  
Skyline Telephone Company  
Midvale, Idaho

Dear Karen:

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I will be available to discuss this statement in more detail after you have reviewed it.

Very truly yours.

Larry

Larry A. Jeffries  
Certified Public Accountant

**Skyline Telephone Company**  
**PROFIT AND LOSS - TELEPHONE OPERATIONS**  
For the Six Months Ended June 30, 2002

|  |                    |
|--|--------------------|
| <b>OPERATING REVENUE</b>                           |                    |
| Basic local network services                       | \$ 17,047.91       |
| Network access services                            | <u>28,619.51</u>   |
| <b>Total Operating Revenues</b>                    | <u>46,667.42</u>   |
| <b>OPERATING EXPENSES</b>                          |                    |
| Plant specific operations                          | 21,743.83          |
| Plant nonspecific operations                       | 2,474.60           |
| Customer operations                                | 3,837.66           |
| Corporate operations                               | 38,282.17          |
| Depreciation and amortization                      | <u>29,435.42</u>   |
| <b>Total Operating Expenses</b>                    | <u>95,693.46</u>   |
| <b>OPERATING EXPENSES</b>                          |                    |
| Other operating taxes                              | <u>70.00</u>       |
| <b>Operating income (loss)</b>                     | <b>(49,096.06)</b> |
| <b>FIXED CHARGES</b>                               |                    |
| Interest on debt                                   | <u>14,671.91</u>   |
|  | <u>(63,767.97)</u> |
| <b>OTHER INCOME</b>                                |                    |
| Gain on sale of assets                             | <u>2,470.00</u>    |
| <b>Net Income (Loss) From Telephone Operations</b> |                    |